

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION

DARREL TREMAINE CARTER : DOCKET NO. 2:13-CV-03181

VS. : JUDGE MINALDI

DAVID PALAY, ET AL : MAGISTRATE JUDGE KAY

REPORT AND RECOMMENDATION

Pro se plaintiff Earl Darrel Tremaine Carter filed the instant civil rights complaint on December 2, 2013. Doc. 1. On December 9, 2013, this court issued a Memorandum Order [doc. 4] instructing plaintiff that he failed to either submit the \$400.00 filing fee or properly complete an application to proceed *in forma pauperis*. Plaintiff was given 30 days to correct the deficiency. On January 29, 2014, plaintiff submitted a second application to proceed *in forma pauperis*. Doc. 6. However, this application did not correct the previously noted deficiency because it was not signed by an authorized accounts officer.

LAW AND ANALYSIS

Federal Rule of Civil Procedure Rule 41(b) permits dismissal of claims “[i]f the plaintiff fails to prosecute or to comply with . . . a court order” Fed. R. Civ. P. 41(b). The district court also has the inherent authority to dismiss an action *sua sponte*, without motion by a defendant. *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630-31 (1962). “The power to invoke this sanction is necessary in order to prevent undue delays in the disposition of pending cases and to avoid congestion in the calendars of the District Courts.” *Id.* at 630–31. As previously stated, plaintiff has failed to comply with an order [doc. 4] of this court.

Accordingly,

IT IS RECOMMENDED that plaintiff's civil rights complaint be **DISMISSED** in accordance with the provisions of FRCP Rule 41(b).

Under the provisions of 28 U.S.C. §636(b)(1)(C) and Fed. R. Civ. Proc. 72(b), parties aggrieved by this report and recommendation have 14 days from its service to file specific, written objections with the clerk of court. A party may respond to another party's objections within 14 days after being served with a copy thereof.

Failure to file written objections to the proposed factual finding and/or the proposed legal conclusions reflected in this report and recommendation within 14 days of its service, or within the time frame authorized by Fed. R. Civ. P. 6(b), shall bar an aggrieved party from attacking either the factual findings or the legal conclusions accepted by the District Court, except upon grounds of plain error. See *Douglas v. United Services Automobile Association*, 79 F.3d 1415 (5th Cir. 1996), superceded by statute on other grounds, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

THUS DONE this 30th day of May, 2014.



KATHLEEN KAY
UNITED STATES MAGISTRATE JUDGE